

OIL AND GAS LEASE

STATE OF TEXAS

COUNTY OF TARRANT

This Oil and Gas Lease ("Lease") is made as of January ²¹~~21~~, 2011 between GREENBRIAR HOLDINGS DALLAS, LTD, a Texas limited partnership, ("Lessor"), whose address is 8214 Westchester Drive, Suite 730, Dallas, TX 75225 ("Lessor"), and BEACON E & P COMPANY, LLC, a Delaware limited liability corporation ("Lessee"), whose mailing address is 1600 Broadway, Suite 1600, Denver, CO, 80202.

1. **Grant.** In and other consideration of Ten Dollars and other consideration in hand paid, Lessor grants and leases unto Lessee the subsurface only of the following described land (the "Land") in Tarrant County, Texas, for the sole purpose of exploring, drilling, producing, and marketing oil and gas, to-wit:

Tract 1: Site 4-R, Block 2 of the Fourth installment of Industrial Community No. 5, Great Southwest Industrial District, an Addition to the City of Grand Prairie, Tarrant County, Texas, containing 4.5914 acres.

Tract 2: Site 5-R, Block 2 of the Fourth installment of Industrial Community No. 5, Great Southwest Industrial District, an Addition to the City of Grand Prairie, Tarrant County, Texas, containing 3.0941 acres.

Tract 3: Site 6-R, in Blocks 1, 2 and 7 of Sites 4-R, 5-R & 6-R, a replat of Sites 4, 5 and 6, Blocks 1, 2 & 7 of the Third installment of Industrial Community No. 5, Great Southwest Industrial District, a replatted Addition to the City of Grand Prairie, Tarrant County, Texas, containing 5.0889 acres.

Tract 4: Site 7, Block 7 of the Third installment of Industrial Community No. 5, Great Southwest Industrial District, an Addition to the City of Grand Prairie, Tarrant County, Texas, containing 4.6044 acres.

Tract 5: 7.552 acre tract of land out of the J. J. Goodwin Survey, Abstract No. 589 in the City of Grand Prairie, Tarrant County, Texas, also known at Site 17, Industrial Community No. 5, Great Southwest Industrial District, City of Grand Prairie, Tarrant County, Texas.

Tract 6: Site 7, Block 4, a 3.212 acre tract of land out of the Second Installment of Industrial Community No. 5, Great Southwest Industrial District, an addition to the City of Grand Prairie, Tarrant County, Texas, as recorded in Volume 388-50, Page 67, Plat Records, Tarrant County, Texas.

See Exhibit A for a full legal description of each Tract.

2. **Primary Term.** This Lease is for a term of three years from the date hereof (the "Primary Term") and as long thereafter oil or gas is produced by Lessee in paying quantities from the Land or land pooled therewith.

3. **Minerals Covered.** This Lease covers only oil and gas. The term "oil and gas" means oil, gas, and other liquid and gaseous hydrocarbons produced through a well bore.

4. **Royalty.**

(a) As royalties (the "Royalties" or "Royalty"), Lessee covenants and agrees:

(i) To deliver free of cost to Lessor at the wells or to the credit of Lessor at the pipeline to which the wells may be connected, 25.00% (the "Royalty Percentage") of all oil and other liquid hydrocarbons produced and saved from the Land. At Lessor's option, which may be exercised from time to time, Lessee shall pay to Lessor the same part of the market value at the well of oil and other liquid hydrocarbons of like grade and gravity prevailing on the day the oil and other hydrocarbons are run from the Lease in the general area in which the Land is located.

(ii) To pay to Lessor:

(1) On gas produced from the Land and sold by Lessee or used on or off the Land and to which the following subparagraphs (2) and (3) do not apply, the Royalty Percentage of the market value at the point of sale, use or other disposition.

(2) On gas produced from the Land that is processed in a processing plant in which Lessee or an affiliate of Lessee has a direct or indirect interest, the higher of the Royalty Percentage of the market value of the gas at the inlet to the processing plant or the Royalty Percentage of the market value of all processed liquids saved from the gas at the plant plus the Royalty Percentage of the market value of all residue gas at the point of sale, use or other disposition.

(3) On gas produced from the Land this is processed in facilities other than a processing plant in which Lessee or an affiliate of Lessee has a direct or indirect interest, the Royalty Percentage of the market value at the plant of all processed liquids credited to the account of Lessee and attributable to the gas plus the Royalty Percentage of the market value of all residue gas at the point of sale, use, or other disposition.

(b) If gas produced from the Land is sold by Lessee pursuant to an arms-length contract with a purchaser that is not an affiliate of Lessee, and for a term of no longer than that which is usual and customary in the industry at the time the contract is made, then the market value of the gas sold pursuant to the contract shall be the total proceeds received by Lessee in the sale, subject to the provisions of 4(c) below.

(c) The market value of gas will be determined at the specified location by reference to the gross heating value (measured in British thermal units) and quality of the gas. The market value used in the calculation of oil and gas Royalty will

never be less than the total proceeds received by Lessee in connection with the sale, use or other disposition of the oil or gas produced or sold. For purposes of this paragraph, if Lessee receives from a purchaser of oil or gas any reimbursement for all or any part of severance or production taxes, or if Lessee realizes any other refund, then Lessor's proportionate share of such reimbursement or refund will be added to the proceeds paid to Lessor. Royalty will be payable on oil and gas produced from the Land and consumed by Lessee on the Land or acreage pooled therewith for compression, dehydration, fuel, or other use. However, Royalty shall not be payable on gas consumed for lift gas operations, so long as the value of the enhancement created by the lift gas operations exceeds the value of the gas consumed.

(d) Except as otherwise expressly provided in this Lease, Lessor's royalty shall not be charged, either directly, indirectly or by deduction from Lessor's portion of the proceeds from the sale of oil and gas production, for any part or portion of the costs and expenses of, for or attributable to investigation, exploration, drilling, development, construction, equipment, facilities, pipelines, roads, operation, or production, including, but not limited to, extraction, gathering, dehydration, separation, compression, storage, transportation, processing, treatment, or marketing of the oil and gas. However, Lessor's Royalty shall bear its proportionate share of ad valorem taxes, production taxes, severance taxes, excise taxes, or any other valid and legitimate tax payable out of or measured by production.

(e) Lessor shall be paid the Royalty Percentage of all payments and other benefits made under any oil or gas sales contract or other arrangement, including take-or-pay payments and payments received in settlement of disputes; provided that if Lessor receives a take-or-pay payment or similar payment for gas that has not been produced, and if gas is subsequently produced, Lessor will only receive its Royalty Percentage on any payments made for make-up gas taken pursuant to the applicable take-or-pay provision or similar provision.

(f) Lessee must disburse or cause to be disbursed to Lessor its Royalty on production from a particular well no later than sixty (60) days after the end of the month in which the production occurred except that the first Royalty payment from a well shall be not later than one hundred twenty (120) days after the end of the month from which first sales from such well occurs. If not paid when due, Lessor's Royalty will bear interest at eighteen percent per annum until paid, which amount Lessee agrees to pay. Acceptance by Lessor of Royalties that are past due will not act as a waiver or estoppel of its right to receive interest due thereon unless Lessor expressly so provides in writing signed by Lessor. The Royalty payment obligations under this Lease shall not be affected by any division order or the provisions of Section 91.402 of the Texas Natural Resources Code or any similar statute.

(g) The receipt by Lessee from a purchaser or a pipeline company of proceeds of production for distribution to Lessor will not result in Lessee acquiring legal or equitable title to those proceeds, but Lessee will at all times hold the proceeds in trust for the benefit of Lessor. Notwithstanding the insolvency, bankruptcy, or other business failure of a purchaser of production from the Land or pipeline company transporting production from the Land, Lessee will remain liable for payment to Lessor for and agrees to pay Lessor all Royalties due Lessor together with interest if not timely paid.

5. **Surface Use.** Lessee is prohibited from using the surface of the Land for any purpose whatsoever (and such prohibition shall include, but not be limited to, the following: any drilling, exploration or mining activities, the laying of any pipelines, the building or any roads, the installation of any surface equipment or facilities or any other activity or operation on, over or across the surface of the Land), but Lessee may engage in directional drilling activities beneath the Land that are conducted on the surface of other land. Any directional drilling must penetrate the Land sufficiently below the surface as to not interfere with the present or future use of the surface of the Land for commercial or residential use, and in no event may the directional drilling penetrate the Land less than 500 feet below the surface.

6. **Shut-In Royalty.** While there is a gas well on this Lease or acreage pooled therewith capable of producing gas in paying quantities, but gas is not being sold, Lessee shall pay or tender in advance an annual shut-in royalty of \$500.00 (the "Shut-In Royalty"), for each well from which gas is not being sold. Payment with respect to a well will be due within sixty (60) days after the well is shut-in. While Shut-In Royalty payments are timely and properly paid, this Lease will be held as a producing lease. The right of Lessee to maintain this Lease in force by payment of Shut-In Royalty shall not exceed two consecutive years. The obligation of Lessee to pay Shut-In Royalty is a condition and not a covenant. The payment or tender of royalty under this paragraph may be made by check of Lessee mailed or delivered to the parties entitled thereto on or before the due date.

A well completed in the Barnett Shale, but not fraced, shall be considered a well capable of producing gas in paying quantities.

7. **Pugh Clause.** At the end of six years from the date of this Lease, this Lease will terminate except as to Land included within a designated pooled unit that is then producing in paying quantities or deemed to be producing in paying quantities by virtue of payment of shut-in royalties. If production from lands within a designated unit ceases from any cause, this Lease will terminate as to the lands within a designated pooled unit unless Lessee commences operations for drilling or reworking on the lands within a designated pooled unit within sixty (60) days after the cessation of production, in which case the Lease as to that part of the Land included in the designated pooled unit will continue in force as long as the operations are prosecuted in good faith with no cessation of more than sixty (60) consecutive days, and if they result in production, for so long thereafter as there is production from the lands within the designated pooled unit in paying quantities.

8. **Pooling.** Lessee shall have the right to pool the Land with contiguous acreage to form pooled units for the production of gas or oil, provided Lessee in good faith believes (a) that lands included within the unit are prospective of oil or gas, and (b) drillsites available to Lessee would permit the drilling of wells which, if drilled, would drain each included tract. The acreage in a pooled gas unit may not exceed 640 acres plus a maximum tolerance of 10% and the acreage in a pooled oil unit may not exceed 40 acres. Any such unit shall become effective when Lessee files in the Official Public Records of the county in which the property is located a document describing the pooled acreage and depths for the pooled unit. Lessee may at its election exercise its pooling option before or after commencing operations. Operations for drilling on or production from any part of a pooled unit that includes land covered by this Lease shall be considered as operations on or production from the portion of the Land included in the pooled unit. There shall be allocated to the Land included in the unit that prorated portion of the production from the pooled unit that the number of surface acres of the Land included in the unit bears to the total number of surface acres included in the unit, provided, however, for periods, if any, in which the total net mineral acres

effectively pooled is less than 90% of the surface acreage, in lieu of allocation based on surface acreage, production shall be allocated on a net mineral acreage basis. Royalties shall be computed on the portion of the production allocated to the Land.

No tract of land shall be pooled unless all of the acreage in such tract is pooled.

If Lessee amends an existing unit to include the Land or a portion thereof, within ninety days thereafter, Lessee shall pay Lessor the amount Lessor would have received as Royalty from unit production had Lessor been in the unit from its inception.

9. **Offset Wells.** A well producing from the Barnett Shale formation located within 330 feet of the Land or land with which the Land is pooled will be conclusively presumed to be draining the Land.

10. **Force Majeure.** Should Lessee be prevented by reason of Force Majeure from complying with any express or implied covenant of this Lease (other than a requirement to pay money or Royalties), without fault, or from conducting drilling or reworking operations on the Land, or from producing oil or gas, then, while so prevented, that covenant will be suspended and Lessee will not be liable for damages for failure to comply therewith, and this Lease will be extended so long as Lessee is prevented from conducting drilling or reworking operations on or from producing oil or gas from the Land if Lessee gives Lessor written notice of the existence of a condition of Force Majeure within 120 days of the commencement of a condition of Force Majeure. The time while Lessee is so prevented will not be counted against Lessee. "Force Majeure" means any Act of God, any federal or state law, or any rule or regulation of any government authority, failure to acquire a drilling permit required under a city drilling ordinance, or other similar cause (other than financial reason) beyond the reasonable control of Lessee. Any condition otherwise constituting a condition of Force Majeure shall cease to be a condition of Force Majeure two years after its commencement. This paragraph is, however, in all things subject to the limitations of time during which this Lease may be continued in force by the payment of Shut-In Royalty.

12. **No Warranties.** Lessor makes no warranty of any kind with respect to title to the Land. By acceptance of this Lease, Lessee acknowledges that it has been given full opportunity to investigate and has conducted sufficient investigation to satisfy itself as to the title to the Land, and Lessee assumes all risk of title failures. If Lessor owns an interest in the Land less than the entire fee simple estate, then the royalties (including shut-in royalties) payable hereunder will be reduced proportionately. If Lessee or a purchaser of production places Lessor's royalties in a suspense status asserting a defect in Lessor's title alleged to be in existence on the date hereof, and such suspension continues for twenty four months, Lessor, at its option, may terminate this Lease.

13. **Insurance.**

(a) Lessee and its agents, employees, designees, contractors, guests, workers, successors and assignees, and all those acting by or on behalf of Lessee (or the Operator of the Lease) agrees during the term of this Lease and for three years following the termination of the Lease, to carry, at its own expense, with insurance companies reasonably acceptable to Lessor and authorized to do business in the State of Texas, the following minimum insurance coverages (any failure by Lessee to satisfy the requirements of this paragraph 13 shall result in an automatic termination of this Lease):

(i) Worker's Compensation and Employees Liability Insurance to cover and include any liability (up to the maximum recoverable under applicable statutes) under or for the worker's compensation laws of the state of Texas, including provisions that claims *in rem* will be treated as *in personam*, in an amount of not less than \$1,000,000 for each accident;

(ii) Automobile Liability with a minimum combined single limit of \$1,000,000 for Bodily Injury and Lands Damage and including coverage for all owned, non-owned and leased vehicles;

(iii) Comprehensive General Liability insurance, including contractual liability, with minimum Bodily Injury, Sickness or Death limits of \$1,000,000 each person and \$1,000,000 per occurrence and Lands Loss or Damage limits of \$1,000,000 per occurrence and \$2,000,000 aggregate operations and products, and Completed Operations of \$4,000,000;

(iv) Umbrella Liability insurance with a minimum limit of \$10,000,000 per occurrence; and

(v) Environmental Impairment Liability insurance covering bodily injury, property damage, clean up cost, natural resource damage, and restoration cost for accidental, sudden, and gradual pollution conditions with a minimum limit of \$10,000,000 per occurrence and \$10,000,000 aggregate.

(b) All insurance policies shall:

(i) Provide for 30 days prior written notice to Lessor and Lessor's lender, Nationwide Life Insurance Company ("Lender"), whose address is C/O Northmarq Capital, 3500 American Blvd. W, Suite 500, Bloomington, MN, 55431, of the cancellation, expiration or reduction of coverage under, or a material change in, any policy;

(ii) Contain waivers of subrogation and right of recovery by Lessee's insurance underwriters against Lessor for injuries, death, losses or damages covered by these policies; and

(iii) Secure for Lessor and Lender the status of Additional Insured under the policy by (i) noting same on all Certificates of Insurance provided Lessor and Lender by Lessee, and (ii) forwarding Lessor and Lender an endorsement from the insurers confirming such Additional Insured status.

(iv) Name Lessor and Lender on the policy as an additional insured.

(c) Lessee shall furnish Lessor and Lender with Lessee's Certificates of Insurance evidencing the above-described coverages prior to conducting any operations under this Lease. Thereafter, Lessee shall provide its Certificates of Insurance at least 30 days after the expiration of previous Certificates of Insurance. Certificates of Insurance shall be sent to

the addresses provided above.

(d) Any self-insured retention, deductibles, and exclusions in coverage in the policies required under paragraph 13 to the extent applicable, shall be assumed by, for the account of and at the sole risk of Lessee. In no event shall the liability of Lessee be limited to the extent of any of the minimum limits of insurance required under this paragraph 13.

(e) To the extent that any of the insurance requirements of this paragraph 13 are not evidenced by Lessee's certificates of insurance, Lessee represents and warrants that the requirements are nonetheless fulfilled by the applicable policies of insurance.

(f) Excluding 13(a)(i) above, all insurance requirements above may be met by a combination of self-insurance, primary and excess insurance policies.

The approval of Lessee's insurance policies by Lessor shall not relieve Lessee of any obligations contained herein, including Lessee's indemnification and defense obligations herein.

14. Miscellaneous.

(a) Nothing in this Lease negates the usual implied covenants imposed upon Lessee.

(b) The term "production" and "producing" mean production and producing in paying quantities.

(c) Upon Lessor's written request, Lessee agrees to furnish Lessor a copy of each title opinion or report obtained by or furnished to Lessee that covers all or any part of the Land or lands within a unit with which some or all of the Land is pooled.

(d) Lessor shall have the right to inspect and copy all records of Lessee relating to the Lease, operations conducted on the Land or acreage pooled therewith, the sale and marketing of production from the Land or acreage pooled therewith, and the payment of Royalties, including the right to audit Lessee's books insofar as they relate to the foregoing.

(e) Notwithstanding anything herein to the contrary, Lessee may conduct seismic operations using the Vibroseis method on the Land.

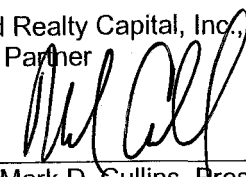
(f) As used in this Lease, "Affiliate" means (i) a corporation, joint venture, partnership, or other entity that owns more than ten percent of Lessee or in which Lessee owns more than ten percent of the outstanding voting interest; or (ii) a corporation, joint venture, partnership, or other entity in which, together with Lessee, more than ten percent of the outstanding voting interests of both Lessee and the other corporation, joint venture, partnership, or other entity is owned or controlled by the same persons or group of persons.

(g) Lessee shall prepare and record a release of this oil and gas lease within sixty (60) days after this lease shall have expired as to all or any portion of this lease.

LESSOR:

GREENBRIAR HOLDINGS DALLAS, LTD.
a Texas limited partnership.

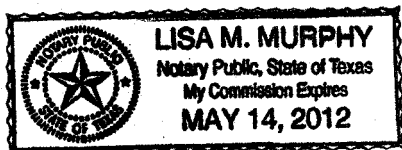
By: Highfield Realty Capital, Inc., a Texas corporation,
General Partner

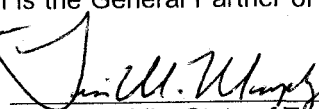
By: 
Mark D. Cullins, President

STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on this 8 day of ^{February}~~January~~, 2011, by Mark D. Cullins, President of Highfield Realty Capital, Inc., a Texas corporation which is the General Partner of Greenbriar Holdings Dallas, a Texas limited partnership, on behalf of said limited partnership.




Notary Public, State of Texas

LESSEE:

BEACON E & P COMPANY, LLC
a Delaware limited liability corporation.

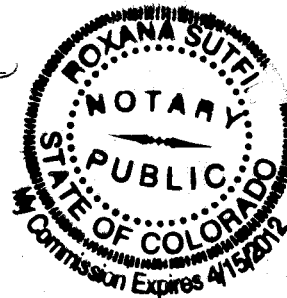
By: Rodney G. Mellott
Rodney G. Mellott, President

STATE OF COLORADO

COUNTY OF DENVER

This instrument was acknowledged before me on this 31 day of January, 2011, by Rodney G. Mellott, President of Beacon E & P Company, LLC.

Roxana Sutei
Notary Public, State of Colorado



MARY LOUISE GARCIA

COUNTY CLERK



100 West Weatherford Fort Worth, TX 76196-0401

PHONE (817) 884-1195

NEWARK EVERGY LLC
777 TAYLOR ST STE 902
FT WORTH, TX 76102

Submitter: NEWARK EVERGY LLC

DO NOT DESTROY
WARNING - THIS IS PART OF THE OFFICIAL RECORD.

Filed For Registration: 4/1/2011 2:53 PM

Instrument #: D211076604

LSE

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PGS

\$32.00

By: _____

Mary Louise Garcia

D211076604

ANY PROVISION WHICH RESTRICTS THE SALE, RENTAL OR USE OF THE DESCRIBED REAL PROPERTY
BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

Prepared by: VMMASSINGILL